TL 1300
CDPM
DOCUMENTAÇÃO

AUSTRALIAN COUNCIL FOR OVERSEAS AID

(INCORPORATED IN THE ACT)

ACFOA HUMAN RIGHTS OFFICE
124 Napier St. Fitzroy. 3065
Australia. Tel: (03) 417-7505

1 May 1990

Dear Parliamentarian for East Timor,

The former convenor of Parliamentarians for East Timor, Mr Tony Lamb, has made your name known to me and I take this opportunity to write to you regarding the Timor Gap Treaty which will be presented to Parliament for consideration during the coming session commencing May 8.

The Government argues there is nothing illegal about the Treaty and that signing it is, in fact, a contribution to the East Timorese people insofar as the Treaty will consolidate Australia's friendship with Indonesia and increase its leverage on behalf of East Timor.

Neither contention stands up to scrutiny. A growing number of international lawyers question the fundamental legality of the Treaty, while to my knowledge no independent expert has come forward to defend it on legal grounds. Reference to their views can be found in the accompanying documents.

Whether or not the Treaty is technically legal, however, there is surely no doubt that it breaches the spirit of international law particularly UN principles against aggression and the rights of people to political and economic self-determination. Though the debate over the propriety of Australia's actions may only be ultimately decided by the International Court of Justice, and many observers believe Portugal will refer the issue to this Court, it is important that the forthcoming Parliamentary discussion not be let pass without at least some reference to these substantial concerns. The credibility and competence of the Parliament as a law-making institution would seem to require this.

Australia's argument that the Treaty will help the Timorese people is particularly cynical. It is clear from the historical record that in extending de iure recognition in early 1979 to Indonesia's takeover, Australia was concerned primarily to open the way to negotiations on the Timor Gap. And it did this at a high point in the Timor conflict. In other words, Australia was not motivated by concern to help the East Timorese but rather to expedite the exploration and exploitation of the vast resources of oil and gas it then knew lay beneath the Gap. Nor did this major concession to Indonesia contribute to the amelioration of the human rights situation in East Timor. Systematic and gross abuses continued following the granting of recognition, as the 1985 Amnesty International Report

documented in detail. And they continue today, as Amnesty International continues to testify and their findings have been substantiated by numerous journalists and other visitors to East Timor over the last twelve months. Some of these reports can be found in the accompanying attachments.

Far from staying Indonesia's hand, Australia's concessions (which exceed in number and magnitude actions by other Western states) have far outweighed any verbal protests and have allowed Indonesia to proceed with impunity.

If there were strong evidence that Australia was genuinely working to promote and protect the human rights of the East Timorese and to achieve a just settlement of the issue through UN mechanisms, one might feel less disturbed by the Treaty process. However, one is forced to the conclusion that the rights and plight of the East Timorese are not being taken into account and have in fact been pushed to one side in the pursuit of political and economic gain.

I hope the attached items are useful in relation to the forthcoming debate on the Treaty in the Parliament. They fall into two categories:

1. information and comment on the Timor Gap Treaty

2. recent information on the situation in East Timor where resistance and repression continue.

Please contact me if I can be of further assistance.

Yours sincerely

Pat Walsh

Secretary, ACFOA Human Rights Office